

The scheme of a convention, between His Most Christian Majesty and the United States of North-America, for defining and regulating the functions and privileges of consuls, vice-consuls, agents and commissaries.

To Sedgwick

THE SCHEME OF A CONVENTION, Between His Most Christian Majesty and the United States of North-America, for defining and regulating the Functions and Privileges of Consuls, Vice-Consuls, Agents and Commissaries.

THE Most Christian King and the United States of North America having by the 29th article of the treaty of amity and commerce concluded between them, granted mutually the liberty of having each in the parts of the other, consuls, vice consuls, agents and commissaries, and being willing in consequence thereof to determine and fix in a reciprocal and permanent manner the functions and prerogatives of the said consuls, vice consuls, agents and commissaries respectively, have agreed as follows:

ARTICLE I. It shall be the duty of the consuls of his Most Christian Majesty to present their commissions in the first instance to the United States in Congress assembled, by whom an act shall be made recognizing them as such. This act shall be delivered by the consuls to the supreme executive power of the state or states to which they may be sent. Two copies of the exequatur, that is a public notification of the quality of the consuls shall thereupon issue from the supreme executive power without fees or perquisites of office, and to be retained by the consuls, the other to be published in one or more gazettes. This being

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done, the pre-eminences, authority and privileges stipulated in this convention, shall be allowed to them in all places, before all tribunals and by all persons.

ARTICLE II. The consuls of his Most Christian Majesty and of the United States may appoint any number of vice consuls within their respective departments. Upon the notification of their appointment by the consuls to the supreme executive power of the state to which they may be sent, the exequatur shall be applied for and delivered by the several states to them in the same [2] manner as to the consuls, and thereupon all the pre-eminences, authority and privileges stipulated in this convention in favor of vice consuls, shall be allowed in all places, before all tribunals and by all persons.

ARTICLE III. Consuls and vice consuls shall be subjects or citizens of the power appointing them, and interdicted from all traffic or commerce for their own or anothers benefit.

ARTICLE IV. Consuls may also appoint any number of agents within their departments, who may be of their own nation or not, at pleasure. They shall receive a commission from the consul appointing. They shall not assume any preeminence, authority or privilege herein granted to consuls or vice consuls, nor exact any fees or reward under any pretence whatever. But they shall confine themselves wholly to the assistance of merchants, mariners and vessels, and giving information respecting them to the nearest consul or vice consul.

ARTICLE V. There may be attached to the consulate, at the will of the consuls, within their departments any number of persons. Neither the papers nor houses of consuls or vice consuls shall be searched. Consuls and vice consuls shall enjoy full and entire immunities for their persons and be exempt from personal service, public offices, finding quarters for soldiers, militia duty, watch ward, guardianship, attorneyship, committeeship, and from all duties, taxes and imposts whatsoever on moveable property, but shall be liable in respect of real and landed property in the same manner as the subjects or citizens of

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the country. The arms of his Most Christian Majesty or of the United States, as the case may be, shall be placed upon the outer door of their house, and being so placed shall entitle the house to the exemptions aforesaid. But no assylum shall be thereby obtained for malefactors or criminals, who shall be delivered up immediately on demand. The same privileges and immunities as those granted in this fifth article to consuls and vice consuls, shall be granted to persons attached to the consulate and living under the same roof with the consuls or vice consuls, provided approbation shall be given of their number and appointment by the supreme executive power of the state to which they may belong.

ARTICLE VI. Consuls, and vice consuls in places where there are no consuls, may have a chapel in their houses for the celebration of divine service according to their religious profession. And his Most Christian Majesty and the United States shall cause particular care to be taken that no obstacle or hindrance be thrown in the way of the funeral obsequies or ceremonies observed towards the deceased of either nation.

ARTICLE VII. In all cases in which it may be necessary that the consuls, or vice consuls should perform any juridical or official act, the public bodies or the persons in public authority who shall require such act, shall either inform them thereof in writing or send a military or civil officer with a verbal message respecting it: And the consuls or vice consuls shall on their part readily and bona fide do whatsoever may be demanded of them on these occasions.

[3] ARTICLE VIII The consuls and vice consuls respectively may establish a chancery as a depositary of the consular acts and deliberations, of effects left by the dead, or saved from shipwreck, of testaments, obligations, contracts, and all other acts and things done by or between people of their nation. They may appoint the officers of the chancery, administer to them an oath of office, entrust to them the keeping of the seal, and the right of affixing the same to commissions, judgments, and other consular acts, and empower them to discharge the functions of notaries and registers.

ARTICLE IX. The consuls and vice consuls respectively, shall have the exclusive right of receiving in their chancery or on board of vessels of their nation, all the declarations and other acts which the captains, masters, seamen, passengers and merchants of their nation shall think proper to make or lodge therein; and last wills and testaments, and copies of any acts duly authenticated by the consuls or vice consuls, and under the seal of their consulate shall receive full faith and credit in all courts of justice as well in France as in the United States. They shall also have the exclusive right of inventoring the effects of those of their nation, who may die within their consulate, liquidating their accounts and selling their moveable property. They shall call to their assistance in this business two merchants of their own nation and of their own choice, and cause to be deposited in the chancery the effects and papers of the deceased of their own nation, without being interrupted therein by any officer, military, judicial or of the police. But neither the consuls nor vice consuls shall deliver the effects of the deceased or the produce of the sales, over to the heir or lawful successor, or his representative or attorney, until all the debts which the deceased shall have contracted by judgement, act or bill shall be discharged: The signature or hand writing and genuineness thereof being first certified by two merchants of the same nation with the deceased and of reputation. In all other cases, payment of no debt shall be made unless the creditor shall first enter into a bond with one sufficient surety at least, who is a resident on the spot, for the return of all monies unduly received, as well the principal as interest and costs: The surety shall not be bound beyond one year in time of peace, and two years in time of war. If however, within those terms, the creditor shall call upon the lawful representative or successor to the property of the deceased, by a proper legal process, and prove his title to the money so received, the surety shall stand discharged.

ARTICLE X. The consuls and vice consuls respectively, shall receive the declarations, consulates or other consular acts of all captains, and masters of their respective nations, for damages received at sea by leakage or the throwing of goods overboard. And all consulates or other consular acts, made by them in foreign ports for accidents during the voyage, shall be lodged in the chancery aforesaid. If a subject of France and a citizen

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of the United States be jointly interested in the cargo, the damage shall be settled by the tribunals of the country, not by the consuls or vice consuls. But where subjects or citizens of their own nation are alone interested, the consul or vice consul shall then chuse experienced persons of their respective nations to settle the same. [4]

ARTICLE XI. In every case of a wreck, the nearest consul or vice-consul, may exercise his discretion in saving the vessel wrecked, with her cargo and appurtenances, and in storing and securing what is saved; and may also take an inventory thereof. In this business no officers of the customs, of justice of the police, or naval officer shall interfere, but upon application made to them for their assistance, in which case they shall exert themselves in the most effectual manner. To prevent all clashing of jurisdictions in case of shipwreck, it is agreed, that where there shall be no consul or vice-consul, or they may be more distant from the place of the accident, that the judge of the country having authority in such cases, this judge shall immediately proceed to the exercise of his authority according to law; but shall retire upon the coming of a consul or vice-consul, into whose hands he shall put the whole business, rendering an account of his transactions, and receiving from the consul or vice consul reimbursements for all expences. Whatsoever is saved shall be lodged in the nearest custom house or naval office, or where there is no custom house or naval office, in the nearest place of security, with an inventory prepared by the consul or vice consul, or in their absence by the judge of the country as aforesaid. Upon the order of the nearest consul or vice consul, and without any fees or perquisites for storage when lodged in public stores, the owner may reclaim the property so saved in person or by attorney, and may either re-export the same free from all duties of exportation or sell it in the country, if goods of such a quality be not prohibited. In this latter case of a sale of unprohibited goods there shall be an abatement of the duties on importation, in proportion to the damages sustained by the shipwreck, to be determined by the account taken by the consul, vice consul or judge of the country, or any other competent officer at the time of the accident.

ARTICLE XII. The consuls and vice consuls shall have on board of the vessels of their respective nations, all power and jurisdiction in matters of a civil nature. They shall have

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the power of causing the laws, regulations and ordinances of their respective nations concerning navigation to be observed on board of their said vessels. For this purpose they shall freely and without any molestation or hindrance from any officer or other person, visit the said vessels. They may cause to be arrested and sequestered every vessel carrying the flag of their respective nations, and even send them back to France or the United States, as the case may be, as well as arrest any captain, master, seaman or passenger, of their respective nations. They may cause to be arrested and detained in the country, sailors and deserters of their respective nations, or cause them to be transported therefrom. It shall be a sufficient evidence of the sailors and deserters belonging to their respective nations, if their names appear in the register of the vessels or the roll of their crew. Proof being thus made concerning sailors and deserters, all tribunals, judges and officers whatsoever shall be interdicted and disabled from taking cognizance in any manner of complaints exhibited by such sailors or deserters. But they shall be delivered up to an order signed by the consuls or vice consuls, without being detained, engaged or withdrawn in any manner. That these powers vested in consuls and vice consuls may be compleatly executed, all persons in authority shall assist them, and upon a simple requisition made by the consuls or vice consuls in writing, shall cause to be kept in prison at [5] the disposal and cost of the consuls or vice consuls, the sailors and deserters so arrested, until an opportunity shall be presented of sending them out of the country.

ARTICLE XIII. All offences committed in France by a citizen of the United States against a subject of his Most Christian Majesty, shall be enquired into and punished according to the laws of France; and those committed in any one of the United States by a subject of his Most Christian Majesty, against a citizen of the United States, shall be enquired into, and punished according to the laws of such state: But offences committed in France, by a citizen of the United States, against a citizen of the United States; or committed in any one of the United States, by a subject of his Most Christian Majesty against a subject of his Most Christian Majesty, shall be subject to the jurisdiction of the consuls and vice consuls of France, or of the United States, as the case may be.

ARTICLE XIV. All differences and disputes between the subjects of his Most Christian Majesty, in the United States, or between the citizens of the United States in France, and all differences and disputes concerning commerce between the subjects of his Most Christian Majesty, one party being resident in France or elsewhere, and another in the United States, or between the citizens of the United States, one party being resident in the United States or elsewhere, and another in France, shall be heard, tried and decided on by the consuls or vice consuls of their respective nations, either by refering the same to arbitration, or by making a decree summarily and without costs. No officer civil or military shall intermeddle or interpose herein in any respect. Appeals shall be carried to such courts as have been, or may be appointed by his Most Christian Majesty and the United States respectively. No disputes or differences between a subject of his Most Christian Majesty and a citizen of the United States, shall be determined or taken up in any manner by the consuls or vice consuls, but shall be decided by the courts of the country in which the defendant shall be found.

ARTICLE XV. The advantages to commerce having caused the erection of certain tribunals in France, and particular forms for the speedy determination of commercial matters, the merchants of the United States shall enjoy the benefits of those establishments in France: and the United States in Congress assembled, will recommend to the legislatures of the several states, to establish equal advantages in the speedy decision of causes in favour of French merchants in matters of the same nature.

ARTICLE XVI. The subjects of his Most Christian Majesty, and the citizes of the United States, shall be exempt from all personal services in the place of their residence, either in France or the United States, as the case may be. Whensoever any person in France, or the United States, as the case may be, shall claim any privilege or exemption as a subject of his Most Christian Majesty, or of the United States, before any judge, tribunal or officer whatsoever, a certificate of the consul or vice consul of the district, containing his name, sirname and the place of his residence, and the affidavit of the person claiming

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such privilege or exemption, that he is a subject of his B [6] Most Christian Majesty, or of the United States, as the case may be, shall be sufficient evidence thereof unless the contrary shall manifestly appear.

ARTICLE XVII. Conformably to the 3d and 4th articles of the treaty of amity and commerce between his Most Christian Majesty and the United States, if any other nation by virtue of any convention whatsoever, shall receive greater indulgences either in France or in the United States, with regard to consular powers, privileges or authority, the consuls, vice consuls, agents and commissaries of France, and of the United States, as the case may be, shall participate therein.

CONVENTION *between His Most Christian Majesty and the Thirteen United States of North-America, for the purpose of determining and fixing the functions and prerogatives of their respective Consuls, Vice Consuls, Agents and Commissaries.*

HIS Majesty the Most Christian King and the Thirteen United States of North-America, having by the 29th article of the treaty of amity and commerce, concluded between them, mutually granted the liberty of having in their respective states and ports, consuls, vice consuls, agents and commissaries, and being willing in consequence thereof, to determine and fix in a reciprocal and permanent manner the functions and prerogatives of the said consuls, vice consuls, agents and commissaries, His Most Christian Majesty has nominated the Sieur Charles Gravier, count of Vergennes, baron of Welferding &c. counsellor of the King in all his councils, commander of his orders, head of the royal council of finances, counsellor of the state of the sword, minister and secretary of state, and of his commands and finances; and the United States, the Sieur Benjamin Franklin their minister plenipotentiary to his Most Christian Majesty, who after having communicated to each other their respective full powers, agreed upon what follows:

ARTICLE I. The consuls and vice consuls nominated by his Most Christian Majesty and the United States, shall be bound to present their commissions on their arrival in the

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respective states, according to the form which shall be there established. There shall be delivered to them without any charges the exequatur necessary for the exercise of their functions; and on the exhibition they shall make of the said exequatur; the governors, commanders, heads of justice, public bodies, tribunals and other officers having authority in the ports and places of their consulates, shall cause them to enjoy as soon as possible and without difficulty, the pre-eminencies, authority and privileges reciprocally granted without exacting from the said consuls and vice consuls any duty, under any pretext whatever.

ARTICLE II. The respective consuls shall have power to establish vice consuls in the different ports and places of their departments, where necessity shall require. There shall be delivered to them likewise the exequatur necessary to the exercise of their functions in the form pointed out by the preceding article, [7] and on the exhibition which they shall make of the said exequatur, they shall be admitted and acknowledged in the terms and according to the powers, authority and privileges stipulated by the 1st, 4th, and 5th articles of the present convention.

ARTICLE III. The respective consuls and vice-consuls may establish agents in the different ports and places of their departments where necessity shall require. These agents may be chosen among the merchants, either national or foreign, and furnished with a commission from one of the said consuls: It shall be their business respectively, to render to their respective merchants, navigators and vessels all possible service, and to inform the nearest consul or vice consul of the wants of the said merchants, navigators and vessels, without the said agents otherwise participating in the immunities, rights and privileges attributed to the consuls and vice consuls, and without power to exact from the said merchants any duty or emolument whatever under any pretext whatsoever.

ARTICLE IV. The consuls and vice consuls, the officers of the consulate, and in general all persons attached to the consular function, shall enjoy respectively a full and entire

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immunity for their person, their papers, and their houses. The list of the said persons shall be approved and inspected by the executive power of the place of their residence.

They shall be exempt from all personal service and public offices, from soldiers billets, militia, *watch guard, guardianship and trusteeship*, as well as from all duties, taxes, impositions and charges whatsoever, except *the real estates* of which they may be proprietors, which shall be subject to the taxes imposed on the estates of all other individuals.

They shall place over the outward door of their house the arms of their sovereign without, that this mark of distinction shall give to the said house the right of assylum for any malefactor or criminal, so that in case it should happen that any malefactor or criminal takes refuge there, he shall be instantly delivered up on the first requisition and without difficulty.

ARTICLE V. Generally in all cases whatever, which concern the police or administration of justice, where it may be necessary to have a juridical declaration from the said consuls and vice consuls respectively, the governors, commandants, chief justice, public bodies, tribunals or other officers whatever of their respective residence there, having authority, shall be bound to inform them of it, by writing to them, or sending to them a military or civil officer to let them know, either the object which is proposed, or the necessity there is for going to them to demand from them this declaration, and the said consuls and vice consuls shall be bound on their part to comply faithfully with what shall be desired of them on these occasions.

ARTICLE VI. The consuls and vice consuls respectively may establish a chancery where shall be deposited the consular acts and deliberations, all effects left by deceased persons, or saved from shipwreck, as well as testaments, obligations, contracts, and in general all the acts and proceedings done between, or by persons of their nation.

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[8] They may in consequence appoint for the *business* of the said chancery capable persons, receive them, administer an oath to them, give to them the keeping of the seal, and the right of sealing commissions, judgments and other acts of the consulate, as well as there to discharge the functions of notaries and registers.

ARTICLE VII. The consuls and vice consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels, the declarations of all the other acts which the captains, masters, seamen, passengers and merchants of their nation would make there, even their testaments, and other dispositions of last will; and the copies of the said acts duly authenticated by the said consuls or vice consuls, and under the seal of their consulate, shall receive faith in law in all the tribunals of France and the United States.

They shall have also, and exclusively the right to inventory, liquidate, and proceed to the sale of the movable effects of the estates left by subjects of their nation, who shall die within the extent of their consulate: They shall proceed therein with the assistance of two merchants of their said nation, of their own choosing, and shall deposit in their chancery, the effects and papers of the said estates, and no officer, military or civil, or of the police of the country, shall trouble them or interfere therein, in any manner whatsoever: But the said consuls and vice consuls shall not deliver up the same and their product to the lawful heirs or *their attornies*, until they shall have discharged all the debts which the deceased shall have contracted in the country, by judgment, by acts or by notes, the writing and signing of which shall be known and certified by two principal merchants of the nation of the said deceased, and in all other cases the payment of debts cannot be ordered but on the creditors giving sufficient and local security to repay the sums unduly received, principal, interest, and costs; which securities however shall remain duly discharged after a year in time of peace, and two years in time of war, if the demand in discharge cannot be formed before these delays, against the heirs which shall present themselves.

ARTICLE VIII. The respective consuls and vice consuls shall receive the declarations, “*consulats*” and other consular acts from all captains and masters of their respective nation on account of average, losses sustained at sea, by leakage or throwing merchandize overboard, and these captains and masters shall leave in the chancery of the said consuls and vice consuls, the “consulats,” and other consular acts which they may have had made in other ports on account of the accidents which may have happened to them on their voyage. If a subject of his Most Christian Majesty and a citizen of the United States are interested in the said cargo the average shall be fixed by the tribunals of the country and not by the consuls or vice consuls; and the tribunals shall admit the acts and declarations, if any should have been passed before the said consuls and vice consuls; but when only the subjects of their own nation, or foreigners shall be interested, the respective consuls or vice consuls, and in case of their absence or distance, their agents furnished with their commission shall officially nominate skilful persons of their said nation to regulate the damages and averages.

[9] ARTICLE IX. In case by storms or other accidents, French ships or vessels shall *run ashore* on the coasts of the United States, and the ships and vessels of the United States, shall *run ashore* on the coasts of France, the consul or vice consul nearest to the place of shipwreck, shall do whatever he may judge proper, as well for the purpose of saving the said ship or vessel, its cargo and appurtenances, as for the storing and security of the effects and merchandize saved. He may take an inventory, without any officers military, of the customhouse, justices or the police of the country interfering, otherwise than to facilitate to the consuls, vice consuls, captain and crew of the vessel shipwrecked or run ashore, all the assistance and favor which they shall ask, either for the celerity and security of the salvage and effects saved, or to prevent all disturbances.

To prevent even any kind of dispute and discussion in the said cases of shipwreck—
It has been agreed, that where no consul or vice consul shall be found to attend to the salvage, or that the residence of the said consul or vice consul (he not being at the place

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of shipwreck) shall be further distant from the said place than that of the competent territorial judge, the latter shall immediately there proceed with all the celerity, safety and precautions prescribed by the respective laws; but the said territorial judge shall retire on the coming of the consul or vice consul, and shall resign to him the procedures by him done, the expences of which the consul or vice consul shall cause to be reimbursed to him.

The merchandize and effects saved, shall be deposited in the custom house or other nearest place of safety, with the inventory of them, which shall be made by the consul or vice consul, or, in their absence, by the judge, who shall have had cognizance thereof, and the said merchandizes and effects shall be afterwards delivered, after levying therefrom, the costs, and without form of process to the proprietors, who, being furnished with a *replevy* from the nearest consul or vice consul, shall reclaim them by themselves, or by their attornies, either for the purpose of re-exporting the merchandizes, and in that case shall pay no kind of duties or exportation; or for the purpose of selling them in the country, if they are not prohibited, and in this latter case, the said merchandizes being averaged, there shall be granted them an abatement of the entrance duties proportioned to the damage sustained, which shall be ascertained by *the verbal process* formed at the time of the shipwreck, or of the vessels running ashore.

ARTICLE X. The consuls and vice consuls shall have on board of the vessels of their respective nations, full power and jurisdiction in matters civil. They shall cause to be executed the respective laws, ordinances and rules concerning navigation, on board the said vessels, and for this purpose they shall go there without being interrupted by any officer or other person whatsoever.

They may cause to be *arrested* every vessel carrying the flag of their respective nation; they may sequester them and even send them back respectively, from the United States to France, or from France to the United States; they may cause to be arrested; without difficulty, every captain, master, sailor or passenger of their said respective nation.

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They may cause to be arrested, or detained in the country, the sailors and C [10] deserters of their respective nations, or send them back or transport them out of the country.

It shall be a sufficient proof that the sailors and deserters belong to one of the respective nations, that their names be written in the ship's register, or inserted in the roll of the crew.

One and the other of these proofs concerning sailors and deserters being thus given, no tribunals, judges and officers whatsoever, shall in any manner whatever take cognizance of the complaints which the said sailors and deserters may make, but they shall on the contrary be delivered up on an order signed by the consul or vice consul, without its being in any ones power, in any manner to detain, engage or withdraw them. And to attain to the complete execution of the arrangements contained in this article all persons having authority shall be bound to assist the said consuls or vice consuls, and on a simple requisition signed by them, they shall cause to be detained and guarded in prison at the disposal and expence of the said consuls and vice consuls, the said sailors and deserters until they shall have an opportunity to send them out of the country.

ARTICLE XI. In cases where the respective subjects shall have committed any crime, they shall be amenable to the judges of the country.

ARTICLE XII. All differences and suits between the subjects of his Most Christian Majesty settled in the United States, or between the citizens and subjects of the United States settled in France, and all differences and suits concerning commerce, between the subjects of his Most Christian Majesty and one of the parties residing in France or elsewhere, and the other in the United States, or between the citizens and subjects of the United States, one of the parties residing in the United States or elsewhere, and the other in France, shall be determined by the respective consuls, either by a reference to arbitration, or by a summary judgment and without costs.

No officer civil or military, shall interfere or take any part whatever in the affair: Appeals shall be carried before the tribunals of France or the United States, to whom it may appertain to take cognizance thereof. The consuls or vice consuls shall not take cognizance of disputes or differences, which shall arise betwixt a subject of his Most Christian Majesty and a citizen of the United States; but the said disputes shall be brought before the tribunals to which the defendant shall be amenable.

ARTICLE XIII. The general utility of commerce having caused to be established in France, tribunals and particular forms to accelerate the decision of commercial affairs, the merchants of the United States shall enjoy the benefit of these establishments in France, and the Congress of the United States shall recommend to the legislatures of the different states to provide equivalent advantages in favour of the French merchants, for the prompt dispatch and decision of affairs of the same nature.

ARTICLE XIV. The subjects of his Most Christian Majesty and those of the United States, who shall prove that they belong to the body of their respective nations, [11] by the certificate of the consul or vice consul of the district, mentioning their names, surnames and place of their settlement, as inscribed in the registers of the consulate, shall not lose, for any cause whatever, in the respective domains and states, the quality of subjects of the country of which they originally were, conformably to the 11th article of the treaty of amity and commerce, of the 6th February, 1778, of which the present article shall serve as an interpretation in case of necessity, and the said subjects respectively shall enjoy in consequence exemption from all personal service in the place of their settlement.

ARTICLE XV. If any other nation acquires, by virtue of any convention whatever, either in France or in the United States, a treatment more favourable with respect to the consular pre-eminencies, powers, authority and privileges, the consuls, vice consuls and agents of his Most Christian Majesty, or the United States reciprocally shall participate therein, agreeable to the terms stipulated therein, agreeable to the terms stipulated by the 2d,

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3d, and 4th articles of the treaty of amity and commerce, concluded between his Most Christian Majesty and the United States.

ARTICLE XVI. The ratification of the present convention shall be given in proper form and exchanged on both sides, within the space of six months, or sooner if possible.

In faith whereof we, the under-written ministers plenipotentiaries of his Most Christian Majesty and the United States of North America, have signed the present convention, and have thereto affixed the seal of our arms.

*Done at Versailles, the 29th July, one thousand seven hundred and eighty-four. **GRAVIER DE VERGENNES**, signed **B. FRANKLIN, (L.S.) (L.S.)** Faithfully translated from the original, by **JOHN PINTARD**.*